

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
160-13 JAMAICA LLC,

Plaintiff,

- against -

CLEAR WIRELESS LLC,

Defendant.
-----X

Case No. CV 11-00792
(Bianco, J.) (Wall, M.J.)

ORDER TO SHOW CAUSE

Upon the reading and filing of the Emergency Affidavit of Daniel G. Lyons, Esq., sworn to on February 28, 2011, the Affidavit of Abraham Betesh, sworn to on February 28, 2011, the Affidavit of Michael S. Luther, P.E., sworn to on February 28, 2011, and all exhibits thereto, including the Summons and Verified Complaint, duly verified on February 10, 2011, and the accompanying Memorandum of Law, and upon all pleadings and proceedings herein, let defendant show cause before the Honorable Joseph Bianco, U.S. District Court Judge, at the Courthouse located at 100 Federal Plaza, Central Islip, New York on the ____ day of March, 2011 at 9:30 a.m. or as soon thereafter as counsel can be heard, why an Order should not be made and entered pursuant to Fed. R. Civ. P. 65:

- (a) directing defendant to allow plaintiff unfettered access to plaintiff's premises located at 160-15 Jamaica Avenue, Jamaica, New York (the "Premises") so that plaintiff can make certain repairs requested by defendant;
- (b) extending the temporary restraining order issued by the Nassau County Supreme Court in this action on February 10, 2011, which was issued prior to the removal of the action to this Court;

- (c) staying and tolling the purported lease termination notices issued by defendant dated December 29, 2010 and January 5, 2011 (the "Purported Termination Notices"); and
- (d) granting plaintiff such other and further relief as the Court deems just, proper and equitable; and it is further

ORDERED that pending the hearing and determination of this motion, and pending further order of this Court: (i) defendant is directed to immediately grant plaintiff unfettered access to the Premises so that plaintiff can make certain repairs requested by defendant; (ii) the temporary restraining order issued by the Nassau County Supreme Court in this action on February 10, 2011, which was issued prior to the removal of this action to this Court, is extended; and (iii) the Purported Termination Notices are stayed and tolled; and it is further

ORDERED that a copy of this Order to Show Cause, and the papers upon which it is based, shall be served upon defendant's counsel of record by overnight mail on or before the _____ day of March, 2011 and such service shall be good and sufficient; and it is further

ORDERED, that answering and/or cross-moving papers, if any, shall be served upon the undersigned counsel for plaintiff, the law firm of Westerman Ball Ederer Miller & Sharfstein, LLP, 1201 RXR Plaza, Uniondale, New York 11556, Attn: Daniel G. Lyons, Esq., for receipt at least seven (7) days before the return date of this application.

ENTER:

J.